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JUN 22 2018

CASCADE COUNTY PLANNING BOARD

May 15, 2018

9:00 am

Court House Annex

325 2nd Ave North

Board Members: Mark Carlson, Richard Liebert, Elliott Merja, Rob Skawinski, Ken Thornton, Dan Johnstone, Dexter Busby

Notice: Pursuant to MCA 2-3-212(1), the official record of the minutes of the meeting is in audio form, located at cascadecountymt.gov and the Clerk and Records Office. This is a written record of this meeting to reflect all the proceedings of the Board. MCA 7-4-2611 (2) (b). Timestamps are indicated in red, within each agenda item below, and will direct you to the precise location should you wish to review the audio segment.

These minutes are paraphrased to reflect the proceedings of the Cascade County Planning Board, and are considered a draft until formally approved by the Planning Board.

Staff Present: Alex Dachs, Fernando Terrones, Jim Ekberg and Natalia Wilson

Attendees: Jenn Rowell

1. Call to order: Chairman Mark Carlson called the meeting to order at 9:03 am

2. Roll call:

Board Members Present: Mark Carlson, Richard Liebert, Rob Skawinski, Ken Thornton, Dexter Busby

Board Members Absent: Elliot Merja and Dan Johnstone

3. Approval of Minutes: April 17, 2017

Richard Liebert motioned to approve the minutes as submitted.

Ken Thornton seconded the motion.

All in Favor, Motion passes 5-0

4. New Business:

Amending the Cascade County Subdivision Regulations

Alex Dachs presented the staff report.

9:04

RECOMMENDATIONS:

The following recommendations are provided for the Board's consideration:

1. Recommend to the County Commission the Amended Cascade County Subdivision Regulations be adopted; or

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Total Pages 7 R 0.00 By bhanson 06/22/2018 09:35:15 AM
Cascade County, Rina Ft Moore - Clerk & Recorder



2. Recommend to the County Commission the Amended Cascade County Subdivision Regulations not be adopted; or
3. Table the proposed Amended Cascade County Subdivision Regulations in order to add or remove language and allow for more discussion on the proposed regulations.

5. Board Questions:

9:09

Mark Carlson asked about the 3-year extension are they supposed to make a payment every three year?

Alex Dachs replied there was no extension for filling fee they only have to pay the initial filling fee nothing has changed as far as fees except they will have a fee with each phase that they bring in

Mark Carlson stated I thought if they came closer together would they have to pay another fee that might be something they might object to because that would be another tax

Alex Dachs replies right.

Dexter Busby stated that going from 3 years to 20 years is a pretty big jump. As we all know the world changes a lot in twenty years do you have any way of recognizing that?

Alex Dachs stated not really, basically you just have to stick to that plan and get those phases filled in order sequentially, so if you miss a phase I think you have to go back to the beginning of the process.

Dexter Busby stated that would be the only way you have to rereview that thing.

Alex Dachs stated right, and currently we are even fillings some old plats that would have received plat approval from 20 years ago such as Spring Three Ridge and stuff like that when the market tanked in 2009 they really didn't do much development on those until recently, the last 3 or 4 years, so there is probably 6 or 7 years where they were just asking for extensions on those phases.

Richard Liebert asked in the house bill 245 is that a time line to take action on an application?

Alex Dachs answered correct

Richard Liebert said so before it was not defined or

Alex Dachs said basically it adds a time line of the review of the final plats starts when the staff receives the final plats and have 20 working day to review for a complete application submittal, if everything is contained in that submittal and if it meets submission plating acts and then if it does it goes to the commissioners and then they are given 20 days to review that and approve it.

Richard Liebert said I'm not going into the minds of the people who drafted the bill what drove this legislation that is what I'm trying to get at, was it just planners or county, because they were not responding in time or something like that.

Alex Dachs responded yes that would be my guess.

Richard Liebert the county is not taking appropriate action therefore my constituents are not being served. (Alex said yes) the second one is the 445-subdivision phasing is there like a time line on that six months or a year or is it open to interpretation

Alex Dachs stated basically they have to submit a schedule to the commissioners and that could be every 3 years, it could be every 5 years, every year they want to bring in a phase its really up to them on that.

Richard Liebert said so is that complicated for the developers who have to go back and say I did not get phase one done. I'm going to start again or I'm going to go to phase two.

Alex Dachs said so that is where they have to bring those phases in sequentially there will be a hearing before the government body to make sure the infrastructure is in place before the final plat gets approved. Typically phase one will bring in the road system phase two road standards etc.

Richard Liebert asked can you identify page by page where the changes are?

Alex Dachs said yes, HB 245 section 5-12 approval period

9:13

Richard Liebert said all the additions/corrections are in red right

Alex Dachs said yes HB 245 is in section 3-6 of final plat application review process and submittal pg. 25

Alex Dachs said under section B

Mark Carlson said yes 20 working days

Richard Liebert said I was looking the phasing language

Jim Ekberg said page 49, 5-13

Alex Dachs said mortgage exemption in section 9-2, under B on pg. 58 of the marked-up version

Mark Carlson said is in green

Ken Thornton stated so if I understand right the regulations in effect for phase 1 the if regulations change when they do phase 3 then the new regulations will apply to phase 3 correct or can it go back and reapply, it says here that new regulations will apply (it's not grandfather in)

Dexter Busby said so unless I misunderstood you said there is no rereview of phase 1

Ken Thornton said of phase one and two but they are doing phase 3 15 years later than the new

Dexter Busby said if this plat was 15 years later it would not be a rereview

Alex Dachs stated the review for the final plat approval before it gets filed

Dexter Busby said yes but I'm talking about the entire plat that would not be a rereview

Alex said no

Ken Thornton stated when regulations are 20 years old they would have to update.

Jim Ekberg said they would have to update it when they want to bring it in then they come and talk to us then we'll go through whatever regulations are enforced at the time.

Dexter Busby said so there is going to be a rereview.

Jim Ekberg said yes there will be for each phase that comes through

Alex Dachs added they can't impose new conditions but they have to review it to make sure it meets all the original conditions.

Ken Thornton said ok so if we put a 60 feet road for phase 1 and 2 and then you change it to 80 feet then phase 3 would have to be 80 feet or do they get to be grandfather in.

9:19

Alex Dachs stated I think they would be grandfather in.

Rob Skawinski stated you would have to because you already approved this phase for 20 years. So, you don't have to go back and rereview it.

Ken Thornton said so you are grandfather in.

Dexter Busby said as long as you are following your finished plan

Jim Ekberg stated that has being brought forward from the beginning that entire phase plat

Rob Skawinski said as long as the legislature doesn't change it again

Jim Ekberg stated and they could, and how they come down and how they have us enforce it at that point or suggest us to enforce it.

Dexter Busby Yea and then we get bigger issues all of a sudden that's why I was asking we got a 20-year window and the world changes it can change dramatically every other year so that's why I was asking

Alex Dachs yeah currently some of those old subdivisions that haven't been built out yet they could be still on the 3-year extensions they are asking for, so they could exceed that 20-year frame that is now a requirement

Dexter Busby asked on page 26 item 2, I'm not sure you are not limiting yourself on that last line of "no further action on application" I understand why you don't want to process an application that is not complete, if you have a really complex thing in front of you wouldn't that limit you to 20 days.

9:21

Alex Dachs responded if we go to a submittal that was not approved we sit on that until the applicant submitted everything missing

Dexter Busby said so this actually limits you more than it limits the applicant I'm not sure it's necessary you might be able to complete this thing with more ease if you allowed yourself to work on it in the window while he was bringing stuff in.

Alex Dachs said right, and I think the staff could continue to look at this application to see if it is complete while we are waiting so that is ready to go to the commissioners

Dexter Busby said this says you can't that is why I was asking when you said no further action I'm just wondering if...

Alex Dachs said yes, I think that action is more of a decision action between the governing body of the commissioners.

Jim Ekberg said yeah any of the actions we can review at any time no further actions means we are not going to move forward with any decisions with that formal 20 days until we have the complete package on hand and so if we are missing the one part like Alex said we can still review say they have 19 pieces of this puzzle we need 20 we can still review the 19

Dexter Busby said that is exactly what I did not want to happen you guys have to stop throw it over here in the pile in the corner

Jim Ekberg stated and that is what we have to do right now supplemental reviews that we are currently doing right now if they are missing something we send it back and then we review it, but we still review those other sections

Dexter Busby said it's a practical matter that is what you have to do

Jim Ekberg said yes

Dexter Busby said I just did not want this whole thing to stop you guys

Alex Dachs said the consultants are aware of the regulations and are quick get those conditions satisfied and met so if they are missing something they correct it

Dexter Busby said if you don't think it's a problem I don't think it's a problem

Mark Carlson said It sounds like they answered, is there any more questions?

Richard Liebert asked about the mortgage please explain the mortgage so you have a piece of property within a subdivision you have mortgage in it you are not affected or vice versa

Alex Dachs said typically the mortgage exemption would have been put on so say on like 80 acres or 100 acres of farm land and you want to go built a house on that but the bank would not want to loan on that large amount of money for the land as well as the improvement for the home so they

would have you do a mortgage exemption to cut out say 3 acres or 5 acres it creates an unofficial tract of land that would be the mortgage tract and then if you defaulted on that loan for the home then the bank would take ownership of that home and that 3 acres or 5 acres

Richard Liebert said so that was the situation before the legislation, the senator Buttrey propose the legislation he was the proponent of this he carried the bill.

Alex Dachs said and then the mortgage exemptions did not create parcels they are more or less a line in the sand and if you did default then that would actually create the parcel at that time. Then it was decided that a lot of those parcels should not have been parcels that were created through this exemption were conveyed, I think that's why they did that exemption.

Ken Thornton said that would be a back way to create a lot

Alex Dachs said yes

Dexter Busby asked its still used to create parcel?

Alex Dachs said correct, will create a parcel if owner defaults

Mark Carlson asked any more questions?

Richard Liebert this goes to commissioners then its posted then public hearing

Alex Dachs quoted section 2-9 pg. 17, Amendment of Regulations and said they will be uploaded

9:27

Dexter Busby asked why the wording was changed from drainage to drain way

Alex Dachs said what pg. was it on, that might be one we pull out for consistency

Dexter Busby said on page 4 and 5 the word flood and flood plain

Jim Ekberg said flood plain because of the flood plain regulation updates after attending the floods plain conference we went to in March the change in the language was to maintain consistency with FEMA floodplain regulations

Mark Carlson asked is there any more questions

Ken Thornton asked (even though this was not changed) about land gifting on page 62 its 9-4 #4 the purpose of the exemption is considered evasion if create more than one additional parcel. does that mean you have to have 160 acres before you can gift land?

9:30

Alex Dachs responded I think that's because of the definition of a subdivision is ant tract less than 160 acres in size and if you start with more than that then create once less then you are not really going though that review process

Ken Thornton because if you have 20 acres break off 5 acres that's less than 160 acres the one you break off is 5 and the one you have left is 15 so then one of those is less than 160 acres if I'm reading correctly because I know the county lets people break land off if it's less than 160 acres

Alex Dachs some of those exemptions are worded different, so we will have to look into it

Ken Thornton stated I guess where it says more than one additional or remaining parcel, I think is that one additional but not the remaining parcel that is what it should say

Alex Dachs said right

Jim Ekberg said I think if you look at 3 though you'll see that a parcel that it talks about a family member that this exemption may not create more than one parcel per eligible family member and I think that is where is trying to address it on there the wording there... because then you have the purpose of evading. Its clarifying 3 by 4

Ken Thornton said ok

Jim Ekberg said I think on section 3 where it says the use of the exemption for 1 family member then it goes the purpose of evading is if you are trying to create more than one additional parcel of less than 160 acres in size for that eligible family member.

Ken Thornton said ok I think it kind of took it as ... (inaudible)

Mark Carlson any more questions

Public Comment Opened at 9:34 am

No further questions

Proponents: None

Opponents: None

Public Comment Closed at 9:35 am

Board Discussion & Decision:

Dexter Busby motioned to Recommend to the County Commission the Amended Cascade County Subdivision Regulations be adopted.

Rob Skawinski seconded the motion.

All in Favor, Motion passes 5-0

5. Old Business: None

6. Board Matters:

Richard Liebert said I hear Jim is retiring I want to thank Jim for all his work he has done a lot of good works.

Jim Ekberg responded thank you it was a very good time here I had an opportunity come up, and I am looking forward to getting back to the Federal sector I wish you and the county a great success

Alex Dachs mentioned we have an upcoming meeting in June 19, third Tuesday in June so if you cannot attend let me know as soon as possible

Dexter Busby said I can't make it.

Alex Dachs said that will be fine Dexter

7. Adjournment:

Richard Liebert motion to adjourn

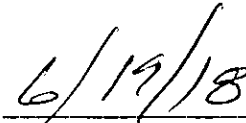
Ken Thornton seconded motion

All in Favor, Motion passes 5-0

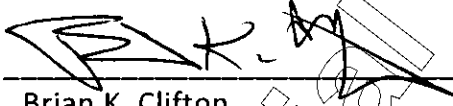
Meeting adjourned at 9:39



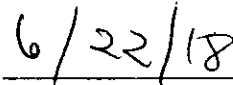
Elliott Merja or Mark Carlson



Date



Brian K. Clifton



Date